

**Franchise Tax Board****ANALYSIS OF ORIGINAL BILL**

Author: Smyth Analyst: Matthew Cooling Bill Number: AB 233  
Related Bills: See Legislative History Telephone: 845-5983 Introduced Date: February 5, 2009  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Pet Adoption Costs Deduction

**SUMMARY**

This bill would allow taxpayers a miscellaneous itemized deduction, up to \$300 per taxable year, for the qualified costs paid or incurred for the adoption of pets from a qualified animal rescue organization.

**PURPOSE OF THE BILL**

According to the author's office, the purpose of this bill is to encourage pet adoptions, thus relieving the overpopulation of animals in shelters.

**EFFECTIVE/OPERATIVE DATE**

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2010, and before January 1, 2015.

**POSITION**

Pending.

**ANALYSIS****FEDERAL/STATE LAW**

Existing federal and state laws allow individuals to deduct either a fixed amount, indexed for inflation, known as the standard deduction, or the amount of a taxpayer's itemized deductions, whichever is greater. Certain expenses, such as medical expenses, charitable contributions, interest, and taxes, are deductible as itemized deductions. Expenses for the production of income and certain employee business expenses are considered miscellaneous itemized deductions and, like certain other itemized deductions, must exceed 2 percent of adjusted gross income (AGI)<sup>1</sup> to be deducted as an itemized deduction.

<sup>1</sup>For purposes of state income tax law, AGI is defined by cross-reference to the Internal Revenue Code (IRC) as gross income, which includes all income from whatever source derived, adjusted for certain allowable amounts, including IRA contributions, alimony paid, moving expenses, and Keogh account contributions.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ <input checked="" type="checkbox"/> PENDING

Department Director      Date

Selvi Stanislaus      04/07/09

Currently, there is no federal or state law that provides any type of tax benefit for adopting a pet from an animal shelter or nonprofit animal welfare organization.

### THIS BILL

Under the Personal Income Tax Law (PITL), this bill would allow a taxpayer to deduct the expenses paid or incurred to adopt an animal from a qualified animal rescue organization as a miscellaneous itemized deduction, subject to the 2 percent of AGI limitation.

This bill defines a “qualified animal rescue organization” as any city, county, or city and county animal control agency, shelter, or animal adoption organization that is exempt from taxation under Internal Revenue Code (IRC) section 501(c)(3).

The maximum deduction allowed by this bill would be \$300 for each taxable year, without regard to the number of adoptions, beginning on or after January 1, 2010, and before January 1, 2015.

### IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

This bill uses the term “fees,” which is undefined. The absence of a definition to clarify this term could lead to disputes with taxpayers and would complicate the administration of this deduction. The author may wish to amend the bill to include a definition for “qualified pet adoption fees.”

This bill would allow a deduction for adopting a pet from a qualified organization. While the deduction would be limited to \$300 per year, it is unclear whether the taxpayer can spread the fees over multiple years to claim more than \$300 per pet. For example, an agency may allow the taxpayer to pay \$300 per year for three years to adopt an animal. The author may wish to include language clarifying that the pet adoption fee deduction is limited to \$300 per year and per pet.

This bill fails to define a qualified pet. This bill would require the department to interpret what a pet is. It is unclear if “pet” means any animal adopted from a qualified animal rescue or shelter. This bill could include animals adopted for work purposes, such as herding or plowing, as well as animals adopted for companionship. The author may wish to add language to clarify the meaning of the word “pet.”

### **LEGISLATIVE HISTORY**

AB 373 (Leach, 2001/2002) would have allowed a taxpayer to deduct expenses for veterinarian services for an animal adopted from an animal shelter or a nonprofit animal welfare organization. This bill failed passage from the Senate Revenue and Taxation Committee.

SB 430 (Vincent, 2001/2002) would have provided a credit for spaying or neutering a cat or dog purchased or adopted by the taxpayer. This bill failed passage after being returned to the Senate.

## OTHER STATES' INFORMATION

Review of *Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable tax deduction for pet adoption. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

## FISCAL IMPACT

This bill would not significantly impact the department's costs.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 233 Effective For Taxable Years Beginning On or After January 1, 2010, and Before January 1, 2015 Enactment Assumed After June 30, 2009					
2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
\$0	-\$80,000	-\$70,000	-\$80,000	-\$80,000	-\$80,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

### Revenue Discussion

For purposes of this analysis, only cats and dogs were included as pets. Though there are numerous resources for those wishing to adopt a pet, there are little reliable data on pet adoptions. This bill would allow a deduction of fees paid or incurred from pet adoption, including pets other than cats and dogs, which would have a minor impact to this revenue analysis. The revenue impact of this bill would depend on the number of qualifying taxpayers who adopt a pet, including a cat or dog, from a qualified animal rescue organization, claim miscellaneous itemized deductions, subject to the 2 percent of AGI limitation, on their personal income tax returns and derive a deduction benefit from adoption costs.

California data from the National Animal Interest Alliance indicate that approximately 68,000 cats and 100,000 dogs from shelters were placed in homes in 2007. The total of 168,000 cats and dogs was doubled to include pets adopted from qualifying IRC 501 (c)(3) organizations for a 2007 figure of 336,000 pets (168,000 X 2). Data from the American Veterinary Medical Association gives an annual pet growth rate of approximately 1 percent annually. The 336,000 pets total is increased by 1 percent annually to approximately 345,000 by 2010.

Taxpayers eligible for this deduction are those who would itemize deductions and whose total amount of miscellaneous itemized deductions exceed the 2 percent of AGI limitation. Total adoption costs are projected at approximately \$38 million in 2010 (345,000 pets X \$110 average adoption fee<sup>2</sup>). Departmental data show approximately 225,000 taxpayers with tax liabilities have miscellaneous itemized deductions that exceed the 2 percent threshold, and the taxpayer derives a deduction benefit. Assuming 5 percent of these taxpayers, or approximately 11,000 (225,000 taxpayers X 5%), would adopt a pet, deductible adoption costs would be approximated at \$1.2 million (11,000 taxpayers X \$110 adoption cost  $\approx$  \$1.2 million). Applying a marginal tax rate of 6.25 percent in 2010 results in an annual revenue loss of approximately \$80,000 (\$1.2 million X 6.25%  $\approx$  \$80,000). The lower amount in the 2011-12 fiscal year is due to the lower marginal tax rate of 6%.

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<sup>2</sup> Calculated from SPCA's costs for adopting pets. [(68,000 cats adopted in California X \$50 = \$3.4 million); (100,000 dogs adopted in California X \$150 = \$15.0 million); \$18.4 million costs/168,000 pets  $\approx$  \$110 average adoption cost per pet.]